

**Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201**

Department of the Treasury

**Number: 201210038
Release Date: 3/9/2012**

Employer Identification Number:

Contact Person - ID Number:

Date: December 13, 2011

Contact Telephone Number:

UIL: 4945.04-04

LEGEND

**B = grant program
C = individual
w = dollar amount
x = dollar amount
y = dollar amount**

Dear :

We have considered your request for advance approval of your grant-making program under section 4945 (g)(3) of the Internal Revenue Code, dated May 10, 2011.

Our records indicate that you are recognized as exempt from federal income tax under section 501(c)(3) of the Code and that you are classified as a private foundation as defined in section 509(a) and are classified as a private operating foundation under section 4942(j)(3).

Your letter indicates that you will operate B, an award program open to any C involved with a recognized international museum or art institute. You will pay for the travel, meals, lodging, research fees and expenses of C to spend time in the United States to research potential international exhibits of American Art. You will make from five to twelve awards annually ranging from x dollars to y dollars. Approximately 300 individuals may be eligible for your program. The term of each award will last no longer than one year. Awards under this program will not be renewable, but previous recipients would be welcome to apply for a second award for a different project, which would be judged on its own merit as a new application.

While the program is open to all qualified individuals regardless of location, you anticipate the majority of the awards will be made in Western Europe, primarily the United Kingdom, Germany, and France with some in Eastern Europe or Russia. Others will be given in Asia, primarily Japan. You will be working to extend the program worldwide, and will be expanding publicity into other regions including China and Latin and South America.

The C's sponsoring institution will be the applicant for the award. The sponsor must identify the individual who will undertake the travel and research, which may not be varied after the award, without your express written approval. If the originally designated C is unable to participate in the program, the sponsor may suggest a replacement, but you will not be obligated to fund such individual's travel.

The sponsor must be a Code Section 501(c)(3) organization or have equivalent status under the laws of the country in which it was organized. Only C's permanently employed by an art institution outside of the United States are eligible. The sponsor must detail the exhibition ideas to be researched and the resources in the United States to be consulted. The recipient shall not be one of your officers or directors or a disqualified person.

In reviewing applications under this program, the review committees shall consider the following objective criteria regarding the sponsor, the C, and the proposed exhibit:

- The C must have the appropriate education and experience to perform the proposed research. In order to make this determination, the C must supply his or her education and employment history, a list of exhibitions that he or she has organized, and list of publications and lectures.
- The prior exhibitions must be commensurate with the project outlined in the proposal.
- The sponsor must have the capacity to produce the exhibition being researched. Information regarding prior exhibits held by the sponsor, additional funding sources for the proposed exhibit, and a statement of current level of institutional commitment to the exhibition is required.
- The subject matter of the exhibit must be of interest with innovative approaches that will result in new award.

Two committees will review the applicants for appropriate budgets, well-researched itineraries, and realistic proposed outcomes. One will be an external review committee and the other will be an internal review committee.

The external review committee shall be comprised of acknowledged scholars and/or curators of American art, and/or an international reviewer with extensive curatorial knowledge and experience. All external review committee members will be asked to provide a list of potential conflicts, and to recuse themselves should any conflicts arise. External review committee members shall remain anonymous to the public and to applicants during their term on the committee. No external review committee members shall benefit personally or professionally from the selection of any particular individual for the grant.

The internal review committee shall consist of your staff members who are scholars of American art and/or museum professionals. Your staff will process and review applications received, with a focus on accomplishing your goal of international exposure for American art. The committee will collect the recommendation of the external review committee and combine these results with the internal review committee. No internal review committee members shall

benefit personally or professionally from the selection of any particular individual for the award.

Awards will be paid directly to the sponsor to be used for the specified recipient. The sponsor will be responsible for distributing funds to the selected recipient, collecting appropriate receipts for travel expenditures, and reporting back to you. Receipts will be required for all expenses over \$100 dollars. Variations of over ten percent from the budget originally proposed will require your advance written approval.

Upon conclusion of the award, the sponsor and C must submit a final report to you, along with the appropriate financial information and receipts. The C must produce a narrative description of the outcomes of the research and the status of the exhibition.

You will always be sensitive to your obligation to insure that funds spent internationally are used for charitable purposes. The program is designed so that only individuals associated with and sponsored by recognized international museums or art institutions are eligible. That sponsoring organization will be handling any funds sent for the benefit of the individual being sponsored.

You will check potential recipients against the OFAC list of Specially Designated Nationals and other watch lists, as appropriate. In the event you will consider an award in a country in which there is currently political instability or other circumstances giving rise for concern over the use of the assets, you may impose more stringent record keeping requirements as a condition of the grant.

You will investigate any diversions of funds from their intended purposes, take all reasonable and appropriate steps to recover diverted funds, ensure funds held by a grantee are used for their intended purposes, and withhold further payments to grantees until you obtain grantees' assurances that future diversions will not occur and that grantees will take extraordinary precautions to prevent future diversions from occurring.

You agree to maintain records that include the following:

- (i) Information used to evaluate the qualification of potential grantees;
- (ii) Identification of the grantees (including any relationship of any grantee to the private foundation);
- (iii) The amount and purpose of each grant; and
- (iv) All grantee reports and other follow-up data obtained in administering the private foundation's grant program.

Sections 4945(a) and (b) of the Code impose certain excise taxes on "taxable expenditures" made by a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of subsection (g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if it is demonstrated that:

- (1) The grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii);
- (2) The grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or
- (3) The purpose of the grant is to achieve a specific objective, produce a report or similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

Section 53.4945-4(c)(1) of the Regulations provides that to secure approval, a private foundation must demonstrate that:

- (i) Its grant procedure includes an objective and nondiscriminatory selection process;
- (ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and
- (iii) The foundation plans to obtain reports to determine whether the grantees performed activities that the grants are intended to finance.

Based on the information submitted and assuming your award programs will be conducted as proposed with a view to provide objectivity and nondiscrimination in making the awards, we have determined that your procedures for granting the awards comply with the requirements contained in section 4945(g) of the Code and that awards granted in accordance with such procedures will not constitute "taxable expenditures" within the meaning of section 4945(d)(3).

In addition, we have determined that awards made under your procedures are 'scholarship or fellowship' grants within the meaning of sections 4945(g)(1) and 117 of the Code, and are excludable from the gross income of the recipients subject to the limitations provided in section 117(b) of the Code, including to the extent that such grants are used for qualified tuition and related expenses within the meaning of section 117(b)(2) of the Code.

This determination is conditioned on the understanding that there will be no material change in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to foundation managers, or members of the selection committee, or for a purpose that is inconsistent with the purpose described in section 170(c)(2)(B) of the Code.

The approval of your award program procedures herein constitutes a one-time approval of your system standards and procedures designed to result in awards which meet the requirements of section 4945(g)(3) of the Code. This determination only covers the grant programs described above. Thus, approval shall apply to subsequent award programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

Any funds you distribute to individuals must be made on a true charitable basis in furtherance of the purposes for which you are organized. Therefore, you should maintain adequate records and case histories so that any or all award distributions can be substantiated upon request by the Internal Revenue Service.

This determination is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as a precedent.

You must report any future changes in your grant making procedures. Please keep a copy of this letter in your permanent records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Lois Lerner
Director, Exempt Organizations

Enclosure
Redacted Copy
Notice 437